



Docket No.: 024047.330C-US01
(PATENT)

#10
1-10-03
H. Owens

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Robert W. Henderson, et al.

Application No.: 09/834,726

Group Art Unit: 1623

Filed: April 16, 2001

Examiner: H. Owens

For: AMINOSUGAR, GLYCOSAMINOGLYCAN,
AND S-ADENOSYLMETHIONINE
COMPOSITION FOR THE TREATMENT AND
REPAIR OF CONNECTIVE TISSUE

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Reply Under 37 C.F.R. § 1.111

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated October 2, 2002, Assignee, Nutramax Laboratories, Inc., submits the following Remarks.

Remarks

Based on the following Remarks, Assignee respectfully requests that the Examiner reconsider and withdraw all outstanding objections and rejections.

Obviousness-Type Double Patenting Rejection

The Examiner has rejected claims 1-13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 6,271,213. Filed herewith is a Terminal Disclaimer to Obviate a Double Patenting Rejection over a Prior Patent under 37 C.F.R. § 1.321(c), executed by the registered attorney of record of the above-captioned application ("Disclaimer"). The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the proprietary of the

rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991). The filing of a terminal disclaimer serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection. *Id.*; M.P.E.P. § 804.02. Based upon filing of the Disclaimer and accompanying fee, Assignee respectfully submits that the obviousness-type double patenting rejection should be withdrawn.

Conclusion


All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Assignee therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding objections and rejections. Assignee believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 50-0740, referencing Docket No. 024047.330C-US01.

Prompt and favorable consideration of this Amendment is respectfully requested.

Date: December 23, 2002

Respectfully submitted,


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